

## ATTACHMENT "A"

## INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT ("Agreement") is made and entered into by and between the City of Lincoln, a political subdivision of the State of Nebraska, hereinafter referred to as "City," and the Nebraska Game and Parks Commission, hereinafter referred to as "Commission."

WHEREAS, the Interlocal Cooperation Act, Neb. Rev. Stat. § 13-801 *et seq.*, (the "Act"), of the State of Nebraska, provides that two or more public entities may enter into an agreement for joint or cooperative action, and this Agreement is made and entered into pursuant to the provisions of that Act and no separate legal or administrative entity is created under this Agreement; and

WHEREAS, the Nebraska Game and Parks Commission desires to construct and operate a Shooting Sports Complex which may include an indoor archery, firearms and air gun range, classrooms, outdoor archery range facilities and Commission education offices from hereafter referred to as the Shooting Sports Complex at Helen Boosalis Park ("Boosalis Park") located in the City of Lincoln and owned by City of Lincoln; and

WHEREAS, all parties agree the establishment of a shooting sports and outdoor skills education and recreation park will be for the mutual benefit and interest of all parties involved through the establishment of an education park that will be available to the general public as well as the objectives for the state Hunter Education program; and

WHEREAS, all parties agree the development of such a center will benefit the existing National Archery in the Schools Program in Lincoln, the existing City of Lincoln Parks and Recreation Department shooting sports programs, Nebraska Hunter and Boater Education programs and the citizens of Lincoln through development of life skills, by providing shooting facilities and classrooms for education and recreational programming; and

NOW, THEREFORE, the City and Commission pursuant to the Interlocal Cooperation Act, Neb. Rev. Stat. § 13-801 *et. seq.* do hereby agree as follows:

1. Duration. This Agreement shall remain in full force until May 1, 2039, unless sooner terminated or modified by mutual agreement of the parties. The term of this Agreement may be extended for any further term or terms as the parties may from time to time mutually agree. This Agreement supersedes all other agreements between the Commission and the City on this matter.

2. Construction and Access. The City will provide a parcel of land (approximately 15 acres) in the southern portion of Boosalis Park for operation of the Shooting Sports Complex. The new facility will be built to fit within the existing scope of the Boosalis Outdoor Recreation Center Master Plan; however, the City may allow changes to the scope of this plan should both parties agree to such changes in writing and approval by the required processes. The final project design and location must be approved by the Mayor and the Director of the Parks and Recreation Department for the City. The City shall hire consultants and contractors for facility design, construction plan design, and facility construction with final oversight coming from the

Commission. The City will allow the Commission, its agents, and the public ingress and egress across abutting City property for access to and utilization of the Shooting Sports Complex and existing outdoor Shooting Sports Complex, subject to further written agreement on the terms of the access. The City agrees to work with the Commission to develop access to the Shooting Sports Complex off of Superior Street, subject to any reasonable and necessary restrictions required by City departments, the State of Nebraska, or federal government. The design and materials of any other permanent structure and fencing must be mutually approved by both parties. The parties agree to coordinate as to appropriate signage for the Shooting Sports Complex.

3. Finance. All costs of design, construction, operation and maintenance of the Shooting Sports Complex will be paid by the Commission. The Commission shall provide reimbursement to the City for expenditures for design and construction within thirty (30) days of receipt by the Commission of written request for reimbursement along with paid invoices. Initial fees must be agreed upon in writing, by both parties, prior to commencement of any work, subject to any requirements in Lincoln Municipal Code and from funding sources. Nothing in this Agreement shall require either the City or the Commission to obligate or transfer any funds other than those specifically defined herein. Nothing in this Agreement shall prevent the City from providing additional support, but City is under no obligation. Specific work projects or activities that involve the transfer of funds, services, or property, other than those outlined in this Agreement will require execution of separate agreements and be contingent upon the availability of the appropriated funds.

4. Improvements to Existing Range. The City agrees to allow the Commission to develop enhancements to the existing facilities on the Shooting Sports Complex to enhance safety, with respect to the City's boundary limitations inside Boosalis Park, which shall include:

- (i) Construction of an overhead shade canopy and baffle over the existing target archery shooting line;
- (ii) Reorientation of existing target butts to allow for development of the east end of Boosalis Park by Lincoln Trap and Skeet Club;
- (iii) Addition of new target butts at 90, 70, 50, and 30 meters to account for Olympic style archery training;
- (iv) Construction of a wooden or fabric barrier to be placed directly south of the trap and skeet ranges to protect shotgun shooters from the archery range;
- (v) Movement of existing field targets lanes to avoid flood water damage to targets and trails.

5. Operation. The Commission specifically retains control and authority of the means and methods of operation for the Shooting Sports Complex, any related activities and the related use of the land, including determining any necessary safety precautions, suitability of the site, and other pertinent conditions whether for itself, or any of the participants and spectators. Normal hours of operation of the Shooting Sports Complex shall be determined by the Commission except that the hours of operation shall be no earlier than 6:00 a.m. and no later than 11:00 p.m., unless additional considerations arise during the term of the Agreement. The Commission shall place a person or persons duly qualified to operate the Shooting Sports

Complex and existing outdoor archery range in charge at all times it is open for public or private use. The Commission shall operate the facility at all times in cooperation with the City. City is interested only in the results produced by this Agreement. The Commission has sole and exclusive charge and control of the manner and means of operation. It is expressly understood that the Commission staff or agents are not employees of City and, thus they are not entitled to any City benefits including, but not limited to, overtime, retirement benefits, workers compensation, sick leave, or injury leave. City shall allow the Commission and its partners to have limited access to the north half of Boosalis Park for archery leagues, tournaments, and organized events as coordinated with and subject to approval by Lincoln Trap and Skeet Club and the City of Lincoln Parks and Recreation Department pursuant to the sporting clays range lease authorized by Ordinance No. 19667.

City will have use of the Shooting Sports Complex without charge for up to three (3) days per year for City Events. City shall coordinate and negotiate with the Commission for use of the Shooting Sports Complex for additional City Events each year as necessary, which use shall not be unreasonably withheld. City Events are defined as any archery events on the Shooting Sports Complex that are co-sponsored or operated by the City. The scheduling of City Events are subject to the previously scheduled Commission events and will be scheduled on open dates on a first-come first-served basis.

6. Maintenance. The Commission, at its sole cost, except as herein otherwise specifically provided, will be responsible for the maintenance of the Shooting Sports Complex, including the current outdoor archery ranges built in partnership in 2005 and any future indoor and outdoor facilities in good and safe order, condition and repair in accordance with City of Lincoln Parks and Recreation Department standards. Maintenance by the Commission shall include mowing the grass and removing garbage and other accumulated trash. The Commission shall clear snow from those walks as needed to provide access to the Shooting Sports Complex. The Commission shall maintain the trees and landscaping in a manner that is consistent with the Shooting Sports Complex. The Commission shall be solely responsible for establishing and maintaining all utilities and services associated with such facility, including, but not limited to, water, sewer, trash, gas, electric, internet, or telephone services. The Commission shall also be responsible for the business management of all aspects of the Shooting Sports Complex.

7. Compliance with Laws and Regulations. The Commission shall conduct and operate the Shooting Sports Complex strictly in compliance with laws, ordinances, rules and regulations of the City, the State of Nebraska, and the United States, now and hereafter in effect during the term of this Agreement, in a manner wholly acceptable to the City, including but not limited to City and federal flood regulations. The Commission shall operate the Shooting Sports Complex and existing outdoor archery range facilities to meet all safety standards for design and operation set forth by the National Rifle Association's Range Source Book titled "A Guide to Planning and Construction" as such book existed on January 1, 2009 or as otherwise required by law (see Neb. Rev. Stat. § 37-1302). The Commission shall take appropriate action to ensure that users of the Shooting Sports Complex do so in compliance with the laws, ordinances, rules and regulations of the City and the State of Nebraska now and hereafter in effect during the term of this Agreement. The Commission shall apply for and obtain any and all necessary permits, certifications, licenses, variances, and approvals required by any applicable law or regulations that relate to the operation of the Shooting Sports Complex and any related activities.

8. Personal Property and Ownership of Improvements. All personal property of the Commission including fixtures kept, stored or maintained on the Shooting Sports Complex shall be so kept, stored or maintained at the sole risk of the Commission. The City assumes no responsibility for loss from fire, theft, vandalism, or malicious mischief. The City shall maintain ownership of any buildings constructed under this Agreement subject to the Reversionary provisions of paragraph 13 herein. The City hereby agrees that the Commission shall have the right to utilize any such buildings and all current or future developments for the purpose of running and maintaining the Shooting Sports Complex and existing outdoor archery range facilities. Upon termination of this Agreement, at the expiration of the original term or termination or expiration of any extended term thereof, the Commission shall have the right to remove or dismantle any structure that it has constructed, leaving the area in the same condition as when this Agreement was entered into within twelve (12) months after such termination, with the City assuming ownership and maintenance on all existing, remaining improvements. Upon termination of this Agreement, whether during or at the expiration of the original term or any extended term thereof or by mutual agreement of the parties, the Commission shall have the right to remove personal property within three (3) months after such termination.

9. Admissions. The Commission and City agree that the Commission will determine access/user fees for use of the Shooting Sports Complex and outdoor ranges, rental equipment and supplies. Local archery clubs may charge a fee to administer occasional tournaments coordinated through the Commission. Rates and price increases are subject to prior approval of the Mayor and the City of Lincoln Parks and Recreation Department Director. A schedule of rates shall be posted in a conspicuous place at the Shooting Sports Complex. The City agrees to allow the Commission to own any proceeds that may come from the use (rentals, user fees, memberships, etc.) or developments of the Shooting Sports Complex during the term of this Agreement.

10. Insurance and Indemnification.

A. The City shall provide insurance coverage for any structure(s) being developed under this Agreement. The Commission shall maintain sole responsibility for all building contents not directly tied to building infrastructure. The Commission shall be responsible for reimbursement of any property insurance deductible (presently at \$50,000) in the event there is a property loss by their negligence. In the event that the Commission does secure insurance to protect itself from general liability, the City of Lincoln shall be named as an additional insured on any insurance policies covering the Shooting Sports Complex.

B. The Commission, to the extent legally possible, shall indemnify, and defend and save harmless the City, or its representatives from all claims, demands, suits, actions, payments, liability, and judgments, including reasonable attorney's fees arising out of or resulting from the use of the Shooting Sports Complex and outdoor ranges or from the Commission's acts or the acts of its agents or employees in the performance of this Agreement. The Commission shall not be obligated to indemnify the City for the City's own negligence for any losses, claims, damages, and expenses arising out of or resulting from the acts or negligence of the City.

11. Entry and Inspection. The Commission hereby further covenants and agrees with City that upon reasonable notice the City shall be permitted to enter upon the Shooting Sports Complex at all reasonable times to examine the condition of the same.

12. Termination. City has the right to terminate this Agreement, without cost, if the Commission shall at any time be in default in the payment of the amounts due hereunder or be in default in the performance of any of the other covenants, terms, conditions or provisions of this Agreement. Termination for breach may occur only after the non-breaching party provides thirty (30) days written notice to the breaching party of the failure to perform and the Commission fails to cure default within the thirty (30) days. The parties may also mutually agree to terminate the Agreement.

13. Reversion. If this Agreement is terminated for any reason other than the completion of the original full term of this Agreement, the City shall compensate the Commission the prorated value of the buildings and structures based upon the remaining useful life of the buildings and structures. By making such prorated payment, the City will have ownership of the buildings and structures.

14. Americans with Disabilities Act (ADA). The Commission shall comply with the Americans with Disabilities Act. The Commission shall take all reasonable steps to provide services for individuals with disabilities as required by the Act. The Commission shall defend, indemnify, protect and hold harmless City and all the officers, employees, and agents of City against any and all claims, demands, losses, actions or causes of action of whatsoever kind, arising or resulting from the Commission's failure to comply with and fulfill the requirements of the ADA, except for the City Events not managed by the Commission. City shall defend, indemnify, protect and hold harmless the Commission and all officers, employees, and agents of the Commission against any and all claims, demands, losses, actions or causes of action of whatsoever kind, arising or resulting from the City's failure to comply with and fulfill the requirements of the ADA for City Events.

15. Nebraska Law. This Agreement shall be governed and interpreted by the Laws of the State of Nebraska without reference to the principles of conflicts of law.

16. Integration, Amendment, Assignment. This Agreement represents the entire agreement between the parties and all prior negotiations and representations are hereby expressly excluded from this Agreement. This Agreement may be amended only by written agreement of both parties. This Agreement and any rights, privileges, and authorities associated with it may not be assigned without the prior written consent of the other party. This Agreement shall be reviewed by all parties on an annual basis and may be amended, in writing, upon the agreement of all parties.

17. Successors and Assigns. This Agreement shall be binding on and shall inure to the benefit of the parties to this Agreement and their respective assigns, executors, heirs, personal representatives, and successors.


18. Severability and Savings. Each section of this Agreement is hereby declared to be independent of every other section so far as inducement for the acceptance of this Agreement and invalidity of any section of this Agreement shall not invalidate any other section thereof.

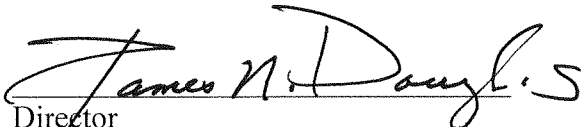
19. Waiver. Any waiver by any party of a default of any other party of this Agreement shall not affect or impair any right arising from any subsequent default. No custom or practice of the parties which varies from the terms of this Agreement shall be a waiver of any party's right to demand exact compliance with the terms of this Agreement.

20. Capacity. The undersigned individuals do hereby agree and represent that he or she is legally capable to sign this Agreement and to lawfully bind their respective parties to this Agreement. This Agreement takes effect upon the signatures of representatives of the parties.

This Agreement is effective this \_\_\_\_ day of \_\_\_\_\_, 2012.

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Chris Beutler, Mayor  
City of Lincoln, Nebraska

  
\_\_\_\_\_  
Lynn Johnson, Director  
City of Lincoln Parks and  
Recreation Department

  
\_\_\_\_\_  
Director  
Nebraska Game and Parks Commission